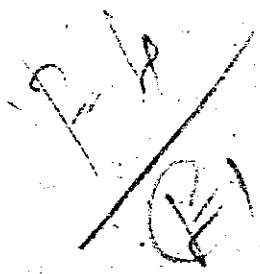
1951 K

File No. O. Public Trust- 51

Legal Dept

A **BRANCH**

Subject:— Opinions under the Bombay Public Trust Act 1950



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C O N T E N T S .

Legal Department File No. O. Public Trust 1951.

Sr. No.	R. I. / O. No.	Subject	Pages.
		Opinions under the Bombay Public Trusts Act, 1950.	
1)-	5381 / 4-4-51.	Resolution by Shri V.M. Trivedi in The Assembly recommanding to appoint to committee to examine the possibility of of using mosques and temples for shcools after taking a census of such mosques and temples.	1-4.
2)	9966 / 22-6-51.	Question whether there is any objection to acquire The Devastan records in the ~~Amendments Ark~~ Anandmurti Math.	5-6.

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5C.

Legal Department.

Shri V.M.Trivedi has moved a resolution in the Asembly recommending, inter alia, to appoint a committee to examine the possibility of using mosques and temples for schools after taking a census of such mosques and temples This is referred to the Legal Department for Remarks.

All temples and mosques are not necessarily public trusts. Some of them are in the nature of private trusts-Temples and mosques which are public trusts will now be governed by the provisions of the Bombay Public Trusts Act, 1950. All public trusts arerequired to be administered and thier funds and properties utilised in accordance with the objects for which they have been created or established. Diversion to other purposes on the principle of Cypres will only be possible by moving the Court under section 55 of the Act with the consent of the Charity Commissioner .Section 55, however, contemplates diversion of public trusts property to other purposes only under certain circumstances. Attention in this connection is invited particularly to clause (c) of sub section (1) of section 55 which runs as follows :

> "If it is not in public interest expedient, practicable, disireable, necessary or proper to carry out wholly or partially the original intention of the author of the public trust was created and that the property or the income of the public trust or any portion thereof should be applied to any other charitable or religious object, the Charity Commissioner shall give notice in writing to the trustee-s to apply to the court within the time prescribed for directions."

V.v.k. 27/6/56/

It is, therefore , probable that the courts may not agree to the utilisation of temple and mosque buildings for the purpose of shcolls , especially if there is opposition to the proposal from the trustees or persons having interest in the tmusts. Special legislation, therefore may be necessary for achieving the object. However, it is possible that such ligislation providing for compulsory use of temple and mosque property for the purposes of shcools may amount to violation of the fundamental right of freedom to manage religious affairs provided under Article 26 of the Constitution. Also it might be mentioned that such compulsory diversion of religious property to secular purposes may give unnecessary offence to religiously inclined persons.

Id/-

Additional Secretary to Government.

U.R. to E.D. No. 5381 dated the 4th April 1951.

V.v.k. 27/ /56/

5C.

Legal Department.

There is nothing in the Bombay Public Trusts Act,, 1950 , to prevent the trustees of a public trust to make over to Government papers and documents in their possession of historical or literary interest either with or without any conditions . There would bot even be any objection to the trustees making over to Government any title deeds of the tmust propebties among the papers for safe custody.

Id/- P.M.L.
Additional Secretary to Government .

U.R. to E.D. No. 9966,
Dated the 22nd June 1951.

V.v.k. 27/6/56/
5C.